UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. LEK SECURITIES CORPORATION, SAMUEL LEK, VALI MANAGEMENT PARTNERS dba AVALON FA LTD, NATHAN FAYYER, and SERGEY PUSTELNIK, Defendants.	Case No. 17-CV-1789 (DLC)

**PLAINTIFF SEC'S MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANTS' MOTION *IN LIMINE* TO EXCLUDE
TESTIMONY OF PROFESSOR NEIL PEARSON**

Plaintiff U.S. Securities and Exchange Commission ("SEC") responds as follows to the

motion and supporting memorandum ("9/13/2019 Memorandum" or "9/13/2019 Mem.") of

Defendants Avalon FA Ltd ("Avalon"), Nathan Fayyer ("Fayyer") and Serge Pustelnik

("Pustelnik") (collectively, the "Avalon Defendants") to exclude the testimony of Professor Neil

Pearson.

INTRODUCTION

The Court already denied a motion to exclude the testimony and opinions of Professor

Neil Pearson ("Pearson"). Defendants Lek Securities Corp. and Samuel Lek (collectively, the

"Lek Defendants") moved to exclude Pearson on August 24, 2018. ECF No. 211. They filed a

supporting memorandum ("Lek 2018 Memorandum") (ECF No. 212), declaration in support

(ECF No. 213) and Reply ("Lek 2018 Reply) (ECF No. 285). The SEC filed a memorandum in

opposition ("SEC 2018 Opposition") (ECF No. 240) and supporting declaration (ECF No. 243).

The Court denied the motion on March 14, 2019. ECF No. 349, at 47.

The Avalon Defendants state that they filed the present motion "primarily to preserve their objections . . . for appeal." 9/13/2019 Mem., at 2, n.1. In support of their present motion, the Avalon Defendants' simply incorporate by reference specified parts of the Lek 2018 Memorandum and 2018 Lek Reply. The Court's denial of the Lek Defendants' motion was correct, and the same result should obtain here.

ARGUMENT

I.   Pearson Used a Reliable Methodology

The Avalon Defendants first argue that Pearson's methodology was not reliable, and in support, they rely on certain pages of the Lek 2018 Memorandum (ECF No. 212) and Lek 2018 Reply (ECF No. 285). The argument is erroneous, and the SEC responds by relying on the entirety of the SEC 2018 Opposition (ECF No. 240), as well as the Court's Opinion and Order dated March 13, 2019 (ECF No. 349). To assist in focusing on the corresponding portions of the cited papers, the SEC provides the following table:

Papers and Pages Relied Upon by Avalon Defendants	Corresponding SEC Papers and Pages	Court's March 13, 2019 Opinion and Order (ECF No. 349)
Lek 2018 Memorandum (ECF No. 212), pages 9-19, and Lek 2018 Reply (ECF No. 285), pages 2-10	SEC 2018 Opposition (ECF No. 240), pages 12-23	Pages 44-46

II.   Pearson's Proposed Testimony Is Reliable and Has Probative Value

The Avalon Defendants argue that Pearson's "proposed testimony is unreliable because it lacks probative value," and they cite pages 17 to 19 of the Lek 2018 Memorandum that allege that Pearson did not analyze other factors that might have affected stock trading. Avalon 2019 Mem., at 2. The argument is erroneous, and the SEC responds by relying on the entirety of its

2018 Opposition (ECF No. 240), and well as the Court's Opinion and Order dated March 13,

2019 (ECF No. 349), and more specifically on the following corresponding pages:

Papers and Pages Relied Upon by Avalon Defendants	*Corresponding SEC Papers and Pages*	*Court's March 13, 2019 Opinion and Order (ECF No. 349)*
Lek 2018 Memorandum (ECF No. 212), pages 17-19	SEC 2018 Opposition (ECF No. 240), pages 23-24	Pages 46-47

Conclusion

For the foregoing reasons, defendants' motion should be denied.

Dated: September 27, 2019   Respectfully submitted,

                       /s/ David J. Gottesman

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed via CM/ECF and thereby served on all counsel of record.

Dated: September 27, 2019 _____/s/ David J. Gottesman_____